

HOUSE BILL No. 1006

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 6-2.5-5-39; IC 6-3; IC 6-3.1; IC 36-7.

Synopsis: Economic development tax incentives. Changes the minimum personal property tax depreciation floor from 30% to 15%. Makes permanent the authority of local designating bodies to grant certain tax abatements. Allows a designating body in any county to grant tax abatement for new logistical distribution equipment and new information technology equipment. Allows tax abatement to be granted after December 31, 2005. Exempts purchases of research and development equipment from sales tax. Provides that, for purposes of the adjusted gross income tax, business income is apportioned based only on the sales factor. Changes the qualifications for an economic development for a growing economy (EDGE) tax credit to retain existing jobs in Indiana. Increases the maximum amount of venture capital investment tax credits that may be granted in a year from \$10,000,000 to \$20,000,000. Repeals a provision restricting the time in which a statement of benefits for a tax abatement may be approved. Extends the deadline for creation of tax increment finance (TIF) areas from December 31, 2005, to December 31, 2015.

Effective: July 1, 2005; January 1, 2006.

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January 19, 2005, read first time and referred to Committee on Commerce, Economic Development and Small Business.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1006

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-3-22 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Except to the
3 extent that it conflicts with a statute and subject to subsection (f),
4 50 IAC 4.2 (as in effect January 1, 2001), which was formerly
5 incorporated by reference into this section, is reinstated as a rule.
6 (b) Tangible personal property within the scope of 50 IAC 4.2 (as
7 in effect January 1, 2001) shall be assessed on the assessment dates in
8 calendar years 2003 and thereafter in conformity with 50 IAC 4.2 (as
9 in effect January 1, 2001).
10 (c) The publisher of the Indiana Administrative Code shall publish
11 50 IAC 4.2 (as in effect January 1, 2001) in the Indiana Administrative
12 Code.
13 (d) 50 IAC 4.3 and any other rule to the extent that it conflicts with
14 this section is void.
15 (e) A reference in 50 IAC 4.2 to a governmental entity that has been
16 terminated or a statute that has been repealed or amended shall be
17 treated as a reference to its successor.

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(f) The department of local government finance may not amend or repeal the following (all as in effect January 1, 2001):

- (1) 50 IAC 4.2-4-3(f).
- (2) 50 IAC 4.2-4-7.
- (3) 50 IAC 4.2-4-9.
- (4) 50 IAC 4.2-5-7.
- (5) 50 IAC 4.2-5-13.
- (6) 50 IAC 4.2-6-1.
- (7) 50 IAC 4.2-6-2.
- (8) 50 IAC 4.2-8-9.

However, except as provided in section 23 of this chapter and notwithstanding 50 IAC 4.2-4-9, for assessment dates beginning with March 1, 2006, the total valuation of a taxpayer's assessable depreciable personal property in a single taxing district may not be less than fifteen percent (15%) of the adjusted cost of all the depreciable personal property of the taxpayer. This limitation shall be applied before any special adjustment for abnormal obsolescence as provided in 50 IAC 4.2-4-8. The limitation does not apply to equipment not placed in service, special tooling, and permanently retired depreciable personal property.

SECTION 2. IC 6-1.1-8-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 44. (a) Except to the extent that it conflicts with a statute and subject to subsection (f), 50 IAC 5.1 (as in effect January 1, 2001), which was formerly incorporated by reference into this section, is reinstated as a rule.

(b) Tangible personal property within the scope of 50 IAC 5.1 (as in effect January 1, 2001) shall be assessed on the assessment dates in calendar years 2003 and thereafter in conformity with 50 IAC 5.1 (as in effect January 1, 2001).

(c) The publisher of the Indiana Administrative Code shall publish 50 IAC 5.1 (as in effect January 1, 2001) in the Indiana Administrative Code.

(d) 50 IAC 5.2 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 5.1 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.

(f) The department of local government finance may not amend or repeal the following (all as in effect January 1, 2001):

- (1) 50 IAC 5.1-6-6.
- (2) 50 IAC 5.1-6-7.
- (3) 50 IAC 5.1-6-8.

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(4) 50 IAC 5.1-6-9.

(5) 50 IAC 5.1-8-1.

(6) 50 IAC 5.1-9-1.

(7) 50 IAC 5.1-9-2.

However, notwithstanding 50 IAC 5.1-6-9, for assessment dates beginning with March 1, 2006, the total value of the distributable depreciable personal property may not be less than fifteen percent (15%) of the adjusted cost of the distributable personal property. The total value of the locally assessed depreciable personal property in a single taxing district may not be less than fifteen percent (15%) of the adjusted cost of the locally assessed depreciable personal property in that taxing district. The fifteen percent (15%) minimum value test shall be applied before any special adjustment for abnormal obsolescence or permanently retired depreciable personal property. The limitation does not apply to construction in progress under 50 IAC 5.1-9-1(a) or special tooling under 50 IAC 5.1-9-1(b).

SECTION 3. IC 6-1.1-12.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. For purposes of this chapter:

(1) "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

(A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues; and

(B) a residentially distressed area, except as otherwise provided in this chapter.

(2) "City" means any city in this state, and "town" means any town incorporated under IC 36-5-1.

(3) "New manufacturing equipment" means any tangible personal property which:

(A) was installed after February 28, 1983, ~~and before January 1, 2006~~, in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible

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personal property is allowed;

(B) is used in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including but not limited to use to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(C) was acquired by its owner for use as described in clause (B) and was never before used by its owner for any purpose in Indiana.

However, notwithstanding any other law, the term includes tangible personal property that is used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products and was installed after March 1, 1993, and before March 2, 1996, even if the property was installed before the area where the property is located was designated as an economic revitalization area or the statement of benefits for the property was approved by the designating body.

(4) "Property" means a building or structure, but does not include land.

(5) "Redevelopment" means the construction of new structures in economic revitalization areas, either:

(A) on unimproved real estate; or

(B) on real estate upon which a prior existing structure is demolished to allow for a new construction.

(6) "Rehabilitation" means the remodeling, repair, or betterment of property in any manner or any enlargement or extension of property.

(7) "Designating body" means the following:

(A) For a county that does not contain a consolidated city, the fiscal body of the county, city, or town.

(B) For a county containing a consolidated city, the metropolitan development commission.

(8) "Deduction application" means either:

(A) the application filed in accordance with section 5 of this chapter by a property owner who desires to obtain the deduction provided by section 3 of this chapter; or

(B) the application filed in accordance with ~~section 5.5~~ **section 5.4** of this chapter by a person who desires to obtain the deduction provided by section 4.5 of this chapter.

(9) "Designation application" means an application that is filed with a designating body to assist that body in making a

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determination about whether a particular area should be designated as an economic revitalization area.

(10) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a). The term includes waste determined to be a hazardous waste under IC 13-22-2-3(b).

(11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a). However, the term does not include dead animals or any animal solid or semisolid wastes.

(12) "New research and development equipment" means tangible personal property that:

(A) is installed after June 30, 2000, ~~and before January 1, 2006~~, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

- (i) laboratory equipment;
- (ii) research and development equipment;
- (iii) computers and computer software;
- (iv) telecommunications equipment; or
- (v) testing equipment;

(C) is used in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products; and

(D) is acquired by the property owner for purposes described in this subdivision and was never before used by the owner for any purpose in Indiana.

The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy, history, or similar projects.

(13) "New logistical distribution equipment" means tangible personal property that:

(A) is installed after June 30, 2004, ~~and before January 1, 2006~~, in an economic revitalization area

~~(i) in which a deduction for tangible personal property is allowed; and~~

~~(ii) located in a county referred to in section 2-3 of this chapter, subject to section 2-3(c) of this chapter.~~

(B) consists of:

- (i) racking equipment;
- (ii) scanning or coding equipment;

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- (iii) separators;
- (iv) conveyors;
- (v) forklifts or lifting equipment (including "walk behinds");
- (vi) transitional moving equipment;
- (vii) packaging equipment;
- (viii) sorting and picking equipment; or
- (ix) software for technology used in logistical distribution;

(C) is used for the storage or distribution of goods, services, or information; and

(D) before being used as described in clause (C), was never used by its owner for any purpose in Indiana.

(14) "New information technology equipment" means tangible personal property that:

(A) is installed after June 30, 2004, ~~and before January 1, 2006~~, in an economic revitalization area

~~(i) in which a deduction for tangible personal property is allowed; and~~

~~(ii) located in a county referred to in section 2.3 of this chapter, subject to section 2.3(c) of this chapter.~~

(B) consists of equipment, including software, used in the fields of:

- (i) information processing;
- (ii) office automation;
- (iii) telecommunication facilities and networks;
- (iv) informatics;
- (v) network administration;
- (vi) software development; and
- (vii) fiber optics; and

(C) before being installed as described in clause (A), was never used by its owner for any purpose in Indiana.

SECTION 4. IC 6-1.1-12.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area. However, the deduction provided by this chapter for economic revitalization areas not within a city or town shall not be available to retail businesses.

(b) In a county containing a consolidated city or within a city or town, a designating body may find that a particular area within its jurisdiction is a residentially distressed area. Designation of an area as a residentially distressed area has the same effect as designating an area as an economic revitalization area, except that the amount of the deduction shall be calculated as specified in section 4.1 of this chapter

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and the deduction is allowed for not more than five (5) years. In order to declare a particular area a residentially distressed area, the designating body must follow the same procedure that is required to designate an area as an economic revitalization area and must make all the following additional findings or all the additional findings described in subsection (c):

(1) The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings or multifamily dwellings designed for up to four (4) families, including accessory buildings for those dwellings.

(2) Any dwellings in the area are not permanently occupied and are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) Parcels of property in the area:

(A) have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or

(B) are owned by a unit of local government.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection or one (1) of the additional findings described in subsection (c).

(c) In a county containing a consolidated city or within a city or town, a designating body that wishes to designate a particular area a residentially distressed area may make the following additional findings as an alternative to the additional findings described in subsection (b):

(1) A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land.

(2) A significant number of dwelling units within the area are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States.

(4) The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

However, in a city in a county having a population of more than two

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hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection as an alternative to one (1) of the additional findings described in subsection (b).

(d) A designating body is required to attach the following conditions to the grant of a residentially distressed area designation:

(1) The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.

(2) If a designation application is filed, the designating body may require that the redevelopment or rehabilitation be completed within a reasonable period of time.

(e) To make a designation described in subsection (a) or (b), the designating body shall use procedures prescribed in section 2.5 of this chapter.

(f) The property tax deductions provided by sections 3 and 4.5 of this chapter are only available within an area which the designating body finds to be an economic revitalization area.

(g) The designating body may adopt a resolution establishing general standards to be used, along with the requirements set forth in the definition of economic revitalization area, by the designating body in finding an area to be an economic revitalization area. The standards must have a reasonable relationship to the development objectives of the area in which the designating body has jurisdiction. The following three (3) sets of standards may be established:

(1) One (1) relative to the deduction under section 3 of this chapter for economic revitalization areas that are not residentially distressed areas.

(2) One (1) relative to the deduction under section 3 of this chapter for residentially distressed areas.

(3) One (1) relative to the deduction allowed under section 4.5 of this chapter.

(h) A designating body may impose a fee for filing a designation application for a person requesting the designation of a particular area as an economic revitalization area. The fee may be sufficient to defray actual processing and administrative costs. However, the fee charged for filing a designation application for a parcel that contains one (1) or more owner-occupied, single-family dwellings may not exceed the cost of publishing the required notice.

(i) In declaring an area an economic revitalization area, the designating body may:

(1) limit the time period to a certain number of calendar years during which the area shall be so designated;

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(2) limit the type of deductions that will be allowed within the economic revitalization area to either the deduction allowed under section 3 of this chapter or the deduction allowed under section 4.5 of this chapter;

(3) limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, and new information technology equipment if a deduction under this chapter had not been filed before July 1, 1987, for that equipment;

(4) limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as economic revitalization areas on or after September 1, 1988; or

(5) impose reasonable conditions related to the purpose of this chapter or to the general standards adopted under subsection (g) for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

To exercise one (1) or more of these powers, a designating body must include this fact in the resolution passed under section 2.5 of this chapter.

(j) Notwithstanding any other provision of this chapter, if a designating body limits the time period during which an area is an economic revitalization area, that limitation does not:

(1) prevent a taxpayer from obtaining a deduction for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment installed ~~before January 1, 2006, but~~ after the expiration of the economic revitalization area if:

(A) the economic revitalization area designation expires after December 30, 1995; and

(B) the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment was described in a statement of benefits submitted to and approved by the designating body in accordance with section 4.5 of this chapter before the expiration of the economic revitalization area designation; or

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(2) limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under section 4 or 4.5 of this chapter.

(k) Notwithstanding any other provision of this chapter, deductions:

(1) that are authorized under section 3 of this chapter for property in an area designated as an urban development area before March 1, 1983, and that are based on an increase in assessed valuation resulting from redevelopment or rehabilitation that occurs before March 1, 1983; or

(2) that are authorized under section 4.5 of this chapter for new manufacturing equipment installed in an area designated as an urban development area before March 1, 1983;

apply according to the provisions of this chapter as they existed at the time that an application for the deduction was first made. No deduction that is based on the location of property or new manufacturing equipment in an urban development area is authorized under this chapter after February 28, 1983, unless the initial increase in assessed value resulting from the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment occurred before March 1, 1983.

(l) If property located in an economic revitalization area is also located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), an application for the property tax deduction provided by this chapter may not be approved unless the commission that designated the allocation area adopts a resolution approving the application.

SECTION 5. IC 6-1.1-12.1-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.3. (a) This section applies only to:

(1) a county in which mile markers fourteen (14) through one hundred twenty (120) of Interstate Highway 69 are located as of March 1, 2004; and

(2) a city or town located in a county referred to in subdivision (1);

(b) A designating body may adopt a resolution under section 2.5 of this chapter to authorize a deduction for new logistical distribution equipment or new information technology equipment.

(c) If any amendment to this chapter that takes effect July 1, 2004, applies a deduction under this chapter for new logistical distribution equipment or new information technology equipment to a broader geographic area than the deduction that would apply under a resolution adopted under this section, the more broadly applied deduction controls

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with respect to the application of the deduction for new logistical distribution equipment or new information technology equipment.

SECTION 6. IC 6-1.1-39-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If the fiscal body of a unit finds that:

(1) in order to promote opportunities for the gainful employment of its citizens, the attraction of a new business enterprise to the unit, the retention or expansion of a business enterprise existing within the boundaries of the unit, or the preservation or enhancement of the tax base of the unit, an area under the fiscal body's jurisdiction should be declared an economic development district;

(2) the public health and welfare of the unit will be benefited by designating the area as an economic development district; and

(3) there has been proposed a qualified industrial development project to be located in the economic development district, with the proposal supported by:

(A) financial and economic data; and

(B) preliminary commitments by business enterprises, associations, state or federal governmental units, or similar entities that evidence a reasonable likelihood that the proposed qualified industrial development project will be initiated and accomplished;

the fiscal body may, before January 1, ~~2006~~, **2016**, adopt an ordinance declaring the area to be an economic development district and declaring that the public health and welfare of the unit will be benefited by the designation.

(b) For the purpose of adopting an ordinance under subsection (a), it is sufficient to describe the boundaries of the area by its location in relation to public ways or streams or otherwise as determined by the fiscal body.

SECTION 7. IC 6-2.5-5-39 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) **As used in this section, "product" includes the following:**

(1) **A pilot model, a process, a formula, an invention, a technique, a patent, or a similar property.**

(2) **Property to be used in a taxpayer's trade or business.**

(3) **Property to be held for sale, lease, or license, regardless of whether the property is ultimately placed in service, sold, leased, or licensed.**

(b) **As used in this section, "research and development" means**

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laboratory or experimental activity to develop or improve a product or to discover information that would eliminate uncertainty concerning the development or improvement of a product.

(c) The term "research and development" does not include any of the following:

- (1) The ordinary testing or inspection of materials or products for quality control. The quality control testing to which this subdivision applies includes testing or inspection to determine whether particular units of materials or products conform to specified parameters. Quality control testing does not include testing to determine if the design of a product is appropriate.
- (2) Efficiency surveys.
- (3) Management studies.
- (4) Consumer surveys.
- (5) Advertising or promotions.
- (6) The acquisition of another person's patent, model, production, process, or other product.
- (7) Research in connection with literary, historical, or similar projects.
- (8) Activities to ascertain the existence, location, extent, or quality of any deposit of oil, gas, ore, or other mineral.
- (9) Assembly, construction, or installation of property that is placed in service or held for sale, lease, or license.

(d) As used in this section, "uncertainty" means the unavailability to the taxpayer of information necessary to establish the capability or method for developing or improving the product or the appropriate design of the product.

(e) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for direct use in research and development.

SECTION 8. IC 6-3-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 24. The term "sales" means all gross receipts of the taxpayer not allocated under ~~IC 6-3-2-2(g)~~ **IC 6-3-2-2(e)** through ~~IC 6-3-2-2(k)~~; **IC 6-3-2-2(i)**, other than compensation (as defined in section 23 of this chapter).

SECTION 9. IC 6-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

- (1) income from real or tangible personal property located in this

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1 state;

2 (2) income from doing business in this state;

3 (3) income from a trade or profession conducted in this state;

4 (4) compensation for labor or services rendered within this state;
5 and

6 (5) income from stocks, bonds, notes, bank deposits, patents,
7 copyrights, secret processes and formulas, good will, trademarks,
8 trade brands, franchises, and other intangible personal property if
9 the receipt from the intangible is attributable to Indiana under
10 section 2.2 of this chapter.

11 In the case of nonbusiness income described in subsection ~~(g)~~, (e), only
12 so much of such income as is allocated to this state under the
13 provisions of subsections ~~(h)~~ (f) through ~~(k)~~ (i) shall be deemed to be
14 derived from sources within Indiana. In the case of business income,
15 only so much of such income as is apportioned to this state under the
16 provision of subsection (b) shall be deemed to be derived from sources
17 within the state of Indiana. In the case of compensation of a team
18 member (as defined in section 2.7 of this chapter) only the portion of
19 income determined to be Indiana income under section 2.7 of this
20 chapter is considered derived from sources within Indiana. In the case
21 of a corporation that is a life insurance company (as defined in Section
22 816(a) of the Internal Revenue Code) or an insurance company that is
23 subject to tax under Section 831 of the Internal Revenue Code, only so
24 much of the income as is apportioned to Indiana under subsection ~~(r)~~
25 (p) is considered derived from sources within Indiana.

26 (b) Except as provided in subsection ~~(t)~~, (j), if business income of
27 a corporation or a nonresident person is derived from sources within
28 the state of Indiana and from sources without the state of Indiana, then
29 the business income derived from sources within this state shall be
30 determined by multiplying the business income derived from sources
31 both within and without the state of Indiana by a fraction, the
32 numerator of which is the property factor plus the payroll factor plus
33 the sales factor. and the denominator of which is three (3). However,
34 after a period of two (2) consecutive quarters of income growth and one
35 (1) additional quarter (regardless of any income growth), the fraction
36 shall be computed as follows:

37 (1) For all taxable years that begin within the first calendar year
38 immediately following the period, the numerator of the fraction
39 is the sum of the property factor plus the payroll factor plus one
40 hundred thirty-three percent (133%) of the sales factor, and the
41 denominator of the fraction is three and thirty-three hundredths
42 (3.33):

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(2) For all taxable years that begin within the second calendar year following the period, the numerator of the fraction is the property factor plus the payroll factor plus one hundred sixty-seven percent (167%) of the sales factor, and the denominator of the fraction is three and sixty-seven hundredths (3.67):

(3) For all taxable years beginning on or after January 1 of the third calendar year following the period, the numerator of the fraction is the property factor plus the payroll factor plus two hundred percent (200%) of the sales factor, and the denominator of the fraction is four (4):

For purposes of this subsection, income growth occurs when the state's nonfarm personal income for a calendar quarter increases in comparison with the state's nonfarm personal income for the immediately preceding quarter at an annualized compound rate of five percent (5%) or more, as determined by the budget agency based on current dollar figures provided by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency. The annualized compound rate shall be computed in accordance with the formula $(1+N)^4-1$, where N equals the percentage change in the state's current dollar nonfarm personal income from one (1) quarter to the next. As soon as possible after two (2) consecutive quarters of income growth, the budget agency shall advise the department of the growth.

(c) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(d) The payroll factor is a fraction, the numerator of which is the

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total amount paid in this state during the taxable year by the taxpayer for compensation; and the denominator of which is the total compensation paid everywhere during the taxable year. However, with respect to a foreign corporation, the denominator does not include compensation paid in a place that is outside the United States. Compensation is paid in this state if:

- (1) the individual's service is performed entirely within the state;
- (2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or
- (3) some of the service is performed in this state and:

- (A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or

- (B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

(c) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from intangible personal property are derived from sources within Indiana if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter. Sales of tangible personal property are in this state if:

- (1) the property is delivered or shipped to a purchaser, other than the United States government, within this state, regardless of the f.o.b. point or other conditions of the sale; or
- (2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and:
 - (A) the purchaser is the United States government; or
 - (B) the taxpayer is not taxable in the state of the purchaser.

Gross receipts derived from commercial printing as described in IC 6-2.5-1-10 shall be treated as sales of tangible personal property for purposes of this chapter.

(d) Sales, other than receipts from intangible property covered by subsection (c) and sales of tangible personal property, are in this state if:

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(1) the income-producing activity is performed in this state; or
 (2) the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

~~(g)~~ **(e)** Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections ~~(h)~~ **(f)** through ~~(k)~~ **(i)**.

~~(h)~~ **(f)(1)** Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocated to this state:

- (i) if and to the extent that the property is utilized in this state; or
- (ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

~~(i)~~ **(g)(1)** Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

- (i) the property had a situs in this state at the time of the sale; or
- (ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

~~(j)~~ **(h)** Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

~~(k)~~ **(i)(1)** Patent and copyright royalties are allocable to this state:

- (i) if and to the extent that the patent or copyright is utilized by

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the taxpayer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(~~h~~) (j) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

~~(2) the exclusion of any one (1) or more of the factors;~~

~~(3) (2) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or~~

~~(4) (3) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.~~

~~(m)~~ (k) In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

~~(n)~~ (l) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net

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income tax regardless of whether, in fact, the state does or does not.

~~(t)~~ **(m)** Notwithstanding subsections ~~(t)~~ **(j)** and ~~(m)~~ **(k)**, the department may not, under any circumstances, require that income, deductions, and credits attributable to a taxpayer and another entity be reported in a combined income tax return for any taxable year, if the other entity is:

(1) a foreign corporation; or

(2) a corporation that is classified as a foreign operating corporation for the taxable year by section 2.4 of this chapter.

~~(p)~~ **(n)** Notwithstanding subsections ~~(t)~~ **(j)** and ~~(m)~~ **(k)**, the department may not require that income, deductions, and credits attributable to a taxpayer and another entity not described in subsection ~~(t)~~ **(m)**(1) or ~~(t)~~ **(m)**(2) be reported in a combined income tax return for any taxable year, unless the department is unable to fairly reflect the taxpayer's adjusted gross income for the taxable year through use of other powers granted to the department by subsections ~~(t)~~ **(j)** and ~~(m)~~ **(k)**.

~~(q)~~ **(o)** Notwithstanding subsections ~~(t)~~ **(m)** and ~~(p)~~ **(n)**, one (1) or more taxpayers may petition the department under subsection ~~(t)~~ **(j)** for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year.

~~(r)~~ **(p)** This subsection applies to a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code. The corporation's adjusted gross income that is derived from sources within Indiana is determined by multiplying the corporation's adjusted gross income by a fraction:

(1) the numerator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks in the state; and

(2) the denominator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks everywhere.

The term "direct premiums and annuity considerations" means the gross premiums received from direct business as reported in the corporation's annual statement filed with the department of insurance.

SECTION 10. IC 6-3-2-2.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.4. (a) For purposes of section ~~2(t)~~ **2(m)** of this chapter, a corporation is a foreign

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operating corporation for a particular taxable year if it has eighty percent (80%) or more of its total business activity occurring outside the United States during the taxable year.

(b) For purposes of determining the amount of a corporation's business activity that occurs within the United States, the department shall determine the sum of that corporation's United States property factor and its United States payroll factor and divide that sum by two (2). If the quotient exceeds two-tenths (0.2), then less than eighty percent (80%) of the corporation's business shall be considered to have occurred outside the United States. If the quotient equals or is less than two-tenths (0.2), then eighty percent (80%) or more of the corporation's business shall be considered to have occurred outside the United States. If a corporation's United States property factor or its United States payroll factor has a denominator of zero (0), then the sum of the two (2) factors shall be divided by one (1) and not by two (2).

(c) The United States property factor of a corporation is a fraction. The numerator of the fraction is the average value of the corporation's real and tangible personal property owned or rented and used in the United States during the taxable year, and the denominator of the fraction is the average value of all the corporation's real and tangible personal property owned or rented and used anywhere in the world during the taxable year. Property owned by the corporation shall be valued at its original cost. Property rented by the corporation shall be valued at eight (8) times the net annual rental rate. The corporation's net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals. The average value of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the corporation's property.

(d) The United States payroll factor of a corporation is a fraction. The numerator of the fraction is the total compensation to individuals paid in the United States during the taxable year by the corporation, and the denominator of the fraction is the total compensation to individuals paid anywhere in the world during the taxable year by the corporation. Compensation to an individual is paid in the United States if:

- (1) the individual's service is performed entirely within the United States;
- (2) the individual's service is performed both within and outside the United States, but the service performed outside the United

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States is incidental to the individual's service within the United States; or

(3) the individual is a resident of the United States, some of the service is performed in the United States, and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the United States; or

(B) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is not in a jurisdiction that is outside the United States and that is where some part of the service is performed.

SECTION 11. IC 6-3.1-13-15.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15.5. This section applies to an application proposing to retain existing jobs in Indiana. After receipt of an application, the board may enter into an agreement with the applicant for a credit under this chapter if the board determines that all the following conditions exist:

(1) The applicant's project will retain existing jobs performed by the employees of the applicant in Indiana.

(2) The applicant provides evidence that there is at least one (1) other competing site outside Indiana that is being considered for the project or for the relocation of jobs.

(3) A disparity is identified, using the best available data, in the projected costs for the applicant's project in Indiana compared with the costs for the project in the competing site.

(4) The applicant is engaged in research and development, manufacturing, or business services (as defined in the Standard Industrial Classification Manual of the United States Office of Management and Budget).

(5) The average compensation (including benefits) provided to the applicant's employees during the applicant's previous fiscal year exceeds the ~~average compensation paid during that same period to all employees in the county in which the applicant's business is located by at least five percent (5%);~~ **lesser of:**

(A) the average county wage in the county where the project for which the credit under this chapter is granted will be located; or

(B) the average wage in Indiana;

during the same period, as determined by the department of commerce.

(6) The applicant employs at least ~~two hundred (200)~~ **seventy-five (75)** employees in Indiana.

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(7) The applicant has prepared a plan for the use of the credits under this chapter for:

(A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or

(B) other direct business related investments, including but not limited to training.

(8) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will increase the likelihood of the applicant reducing jobs in Indiana.

(9) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(10) The applicant's business and project are economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and strengthening the economy of Indiana.

(11) The communities affected by the potential reduction in jobs or relocation of jobs to another site outside Indiana have committed at least one dollar ~~and fifty cents (\$1.50)~~ **(\$1)** of local incentives with respect to the retention of jobs for every ~~three two~~ **two** dollars ~~(\$3)~~ **(\$2)** in credits provided under this chapter. For purposes of this subdivision, local incentives include, but are not limited to, cash grants, tax abatements, infrastructure improvements, investment in facility rehabilitation, construction, and training investments.

(12) The credit is not prohibited by section 16 of this chapter.

SECTION 12. IC 6-3.1-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. In determining the credit amount that should be awarded to an applicant under section 15 of this chapter that proposes a project to create jobs in Indiana, the board shall take into consideration the following factors:

(1) The economy of the county where the projected investment is to occur.

(2) The potential impact on the economy of Indiana.

(3) The incremental payroll attributable to the project.

(4) The capital investment attributable to the project.

(5) The ~~amount the~~ average ~~wage~~ **compensation** paid by the applicant. ~~exceeds the average wage paid within the county in which the project will be located.~~

(6) The costs to Indiana and the affected political subdivisions with respect to the project.

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(7) The financial assistance that is otherwise provided by Indiana and the affected political subdivisions.

As appropriate, the board shall consider the factors in this section to determine the credit amount awarded to an applicant for a project to retain existing jobs in Indiana under section 15.5 of this chapter. In the case of an applicant under section 15.5 of this chapter, the board shall consider the magnitude of the cost differential between the projected costs for the applicant's project in the competing site outside Indiana and the projected costs for the applicant's project in Indiana.

SECTION 13. IC 6-3.1-24-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The total amount of tax credits that may be allowed under this chapter in a particular calendar year for qualified investment capital provided during that calendar year may not exceed **before January 1, 2006, ten million dollars (\$10,000,000) and after December 31, 2005, twenty million dollars (\$20,000,000)**. The department of commerce may not certify a proposed investment plan under section 12.5 of this chapter if the proposed investment would result in the total amount of the tax credits certified for the calendar year **before January 1, 2006, exceeding ten million dollars (\$10,000,000) and after December 31, 2005, exceeding twenty million dollars (\$20,000,000)**. An amount of an unused credit carried over by a taxpayer from a previous calendar year may not be considered in determining the amount of proposed investments that the department of commerce may certify under this chapter.

(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, 2008. However, this subsection may not be construed to prevent a taxpayer from carrying over to a taxable year beginning after December 31, 2008, an unused tax credit attributable to an investment occurring before January 1, 2009.

SECTION 14. IC 36-7-14-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) As used in this section:

"Allocation area" means that part of a blighted area to which an allocation provision of a declaratory resolution adopted under section 15 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory

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1 resolution establishing an economic development area:

2 (A) the net assessed value of all the property as finally
3 determined for the assessment date immediately preceding the
4 effective date of the allocation provision of the declaratory
5 resolution, as adjusted under subsection (h); plus

6 (B) to the extent that it is not included in clause (A), the net
7 assessed value of property that is assessed as residential
8 property under the rules of the department of local government
9 finance, as finally determined for any assessment date after the
10 effective date of the allocation provision.

11 (2) If an allocation provision is adopted after June 30, 1997, in a
12 declaratory resolution or an amendment to a declaratory
13 resolution establishing a blighted area:

14 (A) the net assessed value of all the property as finally
15 determined for the assessment date immediately preceding the
16 effective date of the allocation provision of the declaratory
17 resolution, as adjusted under subsection (h); plus

18 (B) to the extent that it is not included in clause (A), the net
19 assessed value of property that is assessed as residential
20 property under the rules of the department of local government
21 finance, as finally determined for any assessment date after the
22 effective date of the allocation provision.

23 (3) If:

24 (A) an allocation provision adopted before June 30, 1995, in
25 a declaratory resolution or an amendment to a declaratory
26 resolution establishing a blighted area expires after June 30,
27 1997; and

28 (B) after June 30, 1997, a new allocation provision is included
29 in an amendment to the declaratory resolution;

30 the net assessed value of all the property as finally determined for
31 the assessment date immediately preceding the effective date of
32 the allocation provision adopted after June 30, 1997, as adjusted
33 under subsection (h).

34 (4) Except as provided in subdivision (5), for all other allocation
35 areas, the net assessed value of all the property as finally
36 determined for the assessment date immediately preceding the
37 effective date of the allocation provision of the declaratory
38 resolution, as adjusted under subsection (h).

39 (5) If an allocation area established in an economic development
40 area before July 1, 1995, is expanded after June 30, 1995, the
41 definition in subdivision (1) applies to the expanded portion of the
42 area added after June 30, 1995.

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(6) If an allocation area established in a blighted area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded portion of the area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A declaratory resolution adopted under section 15 of this chapter before January 1, ~~2006~~, **2016**, may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution before January 1, ~~2006~~, **2016**, in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision that may not be more than thirty (30) years after the date on which the allocation provision is established. However, if bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the blighted area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made;

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- 1 or
 2 (B) the base assessed value;
 3 shall be allocated to and, when collected, paid into the funds of
 4 the respective taxing units.
 5 (2) Except as otherwise provided in this section, property tax
 6 proceeds in excess of those described in subdivision (1) shall be
 7 allocated to the redevelopment district and, when collected, paid
 8 into an allocation fund for that allocation area that may be used by
 9 the redevelopment district only to do one (1) or more of the
 10 following:
 11 (A) Pay the principal of and interest on any obligations
 12 payable solely from allocated tax proceeds which are incurred
 13 by the redevelopment district for the purpose of financing or
 14 refinancing the redevelopment of that allocation area.
 15 (B) Establish, augment, or restore the debt service reserve for
 16 bonds payable solely or in part from allocated tax proceeds in
 17 that allocation area.
 18 (C) Pay the principal of and interest on bonds payable from
 19 allocated tax proceeds in that allocation area and from the
 20 special tax levied under section 27 of this chapter.
 21 (D) Pay the principal of and interest on bonds issued by the
 22 unit to pay for local public improvements in or serving that
 23 allocation area.
 24 (E) Pay premiums on the redemption before maturity of bonds
 25 payable solely or in part from allocated tax proceeds in that
 26 allocation area.
 27 (F) Make payments on leases payable from allocated tax
 28 proceeds in that allocation area under section 25.2 of this
 29 chapter.
 30 (G) Reimburse the unit for expenditures made by it for local
 31 public improvements (which include buildings, parking
 32 facilities, and other items described in section 25.1(a) of this
 33 chapter) in or serving that allocation area.
 34 (H) Reimburse the unit for rentals paid by it for a building or
 35 parking facility in or serving that allocation area under any
 36 lease entered into under IC 36-1-10.
 37 (I) Pay all or a portion of a property tax replacement credit to
 38 taxpayers in an allocation area as determined by the
 39 redevelopment commission. This credit equals the amount
 40 determined under the following STEPS for each taxpayer in a
 41 taxing district (as defined in IC 6-1.1-1-20) that contains all or
 42 part of the allocation area:

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STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter in the same year.

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses of the commission.

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(3) Except as provided in subsection (g), before July 15 of each year the commission shall do the following:

(A) Determine the amount, if any, by which the base assessed value when multiplied by the estimated tax rate of the allocation area will exceed the amount of assessed value needed to produce the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) Notify the county auditor of the amount, if any, of the amount of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1). The commission may not authorize an allocation of assessed value to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2) or lessors under section 25.3 of this chapter.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

- (1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or
- (2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

- (1) the assessed value of the property as valued without regard to this section; or
- (2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone

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created under IC 4-4-6.1, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata portion of such current property tax proceeds from the portion of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that portion of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustment may not include the effect of property tax abatements under IC 6-1.1-12.1, and the adjustment may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment had not occurred. The department

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1 of local government finance may prescribe procedures for county and
 2 township officials to follow to assist the department in making the
 3 adjustments.

4 SECTION 15. IC 36-7-15.1-26 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) As used in this
 6 section:

7 "Allocation area" means that part of a blighted area to which an
 8 allocation provision of a resolution adopted under section 8 of this
 9 chapter refers for purposes of distribution and allocation of property
 10 taxes.

11 "Base assessed value" means the following:

12 (1) If an allocation provision is adopted after June 30, 1995, in a
 13 declaratory resolution or an amendment to a declaratory
 14 resolution establishing an economic development area:

15 (A) the net assessed value of all the property as finally
 16 determined for the assessment date immediately preceding the
 17 effective date of the allocation provision of the declaratory
 18 resolution, as adjusted under subsection (h); plus

19 (B) to the extent that it is not included in clause (A), the net
 20 assessed value of property that is assessed as residential
 21 property under the rules of the department of local government
 22 finance, as finally determined for any assessment date after the
 23 effective date of the allocation provision.

24 (2) If an allocation provision is adopted after June 30, 1997, in a
 25 declaratory resolution or an amendment to a declaratory
 26 resolution establishing a blighted area:

27 (A) the net assessed value of all the property as finally
 28 determined for the assessment date immediately preceding the
 29 effective date of the allocation provision of the declaratory
 30 resolution, as adjusted under subsection (h); plus

31 (B) to the extent that it is not included in clause (A), the net
 32 assessed value of property that is assessed as residential
 33 property under the rules of the department of local government
 34 finance, as finally determined for any assessment date after the
 35 effective date of the allocation provision.

36 (3) If:

37 (A) an allocation provision adopted before June 30, 1995, in
 38 a declaratory resolution or an amendment to a declaratory
 39 resolution establishing a blighted area expires after June 30,
 40 1997; and

41 (B) after June 30, 1997, a new allocation provision is included
 42 in an amendment to the declaratory resolution;

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the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded portion of the area added after June 30, 1995.

(6) If an allocation area established in a blighted area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded portion of the area added after June 30, 1997.

Except as provided in section 26.2 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A resolution adopted under section 8 of this chapter before January 1, ~~2006~~, **2016**, may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution before January 1, ~~2006~~, **2016**, in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision that may not be more than thirty (30) years after the date on which the allocation provision is established. However, if bonds or other obligations that were scheduled when issued to mature before the specified expiration

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date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the blighted area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 19 of this chapter.

(D) Pay the principal of and interest on bonds issued by the consolidated city to pay for local public improvements in that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 17.1 of this chapter.

(G) Reimburse the consolidated city for expenditures for local

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public improvements (which include buildings, parking facilities, and other items set forth in section 17 of this chapter) in that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility in that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The special fund may not be used for operating expenses of the commission.

(3) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the base assessed value when multiplied by the estimated tax rate of the allocated area will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2) and subsection (g).

(B) Notify the county auditor of the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with

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respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 4-4-6.1, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the

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enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in the enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(2). However, where reference is made in subsection (b)(2) to the allocation area, the reference refers for purposes of payments from the special zone fund only to that portion of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustment may not include the effect of property tax abatements under IC 6-1.1-12.1, and the adjustment may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

SECTION 16. IC 36-7-15.1-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 53. (a) As used in this section:

"Allocation area" means that part of a blighted area to which an allocation provision of a resolution adopted under section 40 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means:

(1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(2) to the extent that it is not included in subdivision (1), the net

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1 assessed value of property that is assessed as residential property
 2 under the rules of the department of local government finance, as
 3 finally determined for any assessment date after the effective date
 4 of the allocation provision.

5 Except as provided in section 55 of this chapter, "property taxes"
 6 means taxes imposed under IC 6-1.1 on real property.

7 (b) A resolution adopted under section 40 of this chapter before
 8 January 1, ~~2006~~, **2016**, may include a provision with respect to the
 9 allocation and distribution of property taxes for the purposes and in the
 10 manner provided in this section. A resolution previously adopted may
 11 include an allocation provision by the amendment of that resolution
 12 before January 1, ~~2006~~, **2016**, in accordance with the procedures
 13 required for its original adoption. A declaratory resolution or an
 14 amendment that establishes an allocation provision must be approved
 15 by resolution of the legislative body of the excluded city and must
 16 specify an expiration date for the allocation provision that may not be
 17 more than thirty (30) years after the date on which the allocation
 18 provision is established. However, if bonds or other obligations that
 19 were scheduled when issued to mature before the specified expiration
 20 date and that are payable only from allocated tax proceeds with respect
 21 to the allocation area remain outstanding as of the expiration date, the
 22 allocation provision does not expire until all of the bonds or other
 23 obligations are no longer outstanding. The allocation provision may
 24 apply to all or part of the blighted area. The allocation provision must
 25 require that any property taxes subsequently levied by or for the benefit
 26 of any public body entitled to a distribution of property taxes on taxable
 27 property in the allocation area be allocated and distributed as follows:

28 (1) Except as otherwise provided in this section, the proceeds of
 29 the taxes attributable to the lesser of:

30 (A) the assessed value of the property for the assessment date
 31 with respect to which the allocation and distribution is made;
 32 or

33 (B) the base assessed value;

34 shall be allocated to and, when collected, paid into the funds of
 35 the respective taxing units.

36 (2) Except as otherwise provided in this section, property tax
 37 proceeds in excess of those described in subdivision (1) shall be
 38 allocated to the redevelopment district and, when collected, paid
 39 into a special fund for that allocation area that may be used by the
 40 redevelopment district only to do one (1) or more of the
 41 following:

42 (A) Pay the principal of and interest on any obligations

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payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 50 of this chapter.

(D) Pay the principal of and interest on bonds issued by the excluded city to pay for local public improvements in that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 46 of this chapter.

(G) Reimburse the excluded city for expenditures for local public improvements (which include buildings, park facilities, and other items set forth in section 45 of this chapter) in that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility in that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The special fund may not be used for operating expenses of the commission.

(3) Before July 15 of each year, the commission shall do the following:

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(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2) and subsection (g).

(B) Notify the county auditor of the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

- (1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or
- (2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located, is the lesser of:

- (1) the assessed value of the property as valued without regard to this section; or
- (2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 4-4-6.1, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes

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specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in an enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(2). However, where reference is made in subsection (b)(2) to the allocation area, the reference refers, for purposes of payments from the special zone fund, only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustment may not include the effect of property tax abatements under IC 6-1.1-12.1, and the adjustment may not produce less property tax proceeds allocable to the redevelopment

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1 district under subsection (b)(2) than would otherwise have been
2 received if the general reassessment had not occurred. The department
3 of local government finance may prescribe procedures for county and
4 township officials to follow to assist the department in making the
5 adjustments.

6 SECTION 17. IC 6-1.1-12.1-9 IS REPEALED [EFFECTIVE JULY
7 1, 2005].

8 SECTION 18. [EFFECTIVE JULY 1, 2005] (a) IC 6-3-1-24,
9 IC 6-3-2-2, and IC 6-3-2-2.4, all as amended by this act, apply only
10 to taxable years beginning after December 31, 2005.

11 (b) For purposes of IC 6-2.5-5-39, as added by this act, all
12 transactions shall be considered as having occurred after June 30,
13 2005, to the extent that delivery of the property or services
14 constituting selling at retail is made after that date to the
15 purchaser or to the place of delivery designated by the purchaser.
16 However, a transaction shall be considered as having occurred
17 before July 1, 2005, to the extent that the agreement of the parties
18 to the transaction was entered into before July 1, 2005, and
19 payment for the property or services furnished in the transaction
20 is made before July 1, 2005, notwithstanding the delivery of the
21 property or services after June 30, 2005.

22 (c) IC 6-3.1-13-15.5 and IC 6-3.1-13-17, both as amended by this
23 act, apply only to credits awarded after June 30, 2005.

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